

S P E E C H
O F
HON. LYMAN TRUMBULL,
O F I L L I N O I S ,
O N
A M E N D I N G T H E C O N S T I T U T I O N T O P R O -
H I B I T S L A V E R Y .

DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 28, 1864.

The Senate having under consideration the following joint resolution, proposed by the Committee on the Judiciary for amending the Constitution:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid, to all intents and purposes, as a part of the said Constitution, namely:

ARTICLE XIII.

SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation."

Mr. TRUMBULL said:

MR. PRESIDENT: As the organ of the Committee on the Judiciary which has reported this resolution to the Senate, I desire to present briefly some of the considerations which induced me, at least, to give it my support. It is a proposition so to amend the Constitution of the United States as forever to prohibit slavery within its jurisdiction, and authorize the Congress of the United States to pass such laws as may be necessary to carry this provision into effect.

Without stopping to inquire into all the causes of our troubles, and of the distress, desolation, and death which have grown out of this atrocious rebellion, I suppose it will be generally admitted that they sprung from slavery. If a large political party in the North attribute these troubles to the impertinent interference of northern philanthropists and fanatics with an institution in the southern States with which they had no right to interfere, I reply, if there had been no such institution there could have been no such alleged impertinent interference; if there had been no slavery in the South, there could have been no abolitionists in the North to interfere with it. If, upon the other hand, it be said that this rebellion grew out of the attempt on the part of those in the interest of slavery to govern this country so as to

perpetuate and increase the slaveholding power, and failing in this that they have endeavored to overthrow the Government and set up an empire of their own, founded upon slavery as its chief corner-stone, I reply, if there had been no slavery there could have been no such foundation on which to build. If the freedom of speech and of the press, so dear to freemen everywhere, and especially cherished in this time of war by a large party in the North who are now opposed to interfering with slavery, has been denied us all our lives in one half of the States of the Union, it was by reason of slavery.

If these Halls have resounded from our earliest recollections with the strifes and contests of sections, ending sometimes in blood, it was slavery which almost always occasioned them. No superficial observer, even, of our history North or South, or of any party, can doubt that slavery lies at the bottom of our present troubles. Our fathers who made the Constitution regarded it as an evil, and looked forward to its early extinction. They felt the inconsistency of their position, while proclaiming the equal rights of all to life, liberty, and happiness, they denied liberty, happiness, and life itself to a whole race, except in subordination to them. It was impossible, in the nature of things, that a Government based on such antagonistic principles could permanently and peacefully endure, nor did its founders expect it would. They looked forward to the not distant, nor as they supposed uncertain period when slavery should be abolished, and the Government become in fact, what they made it in name, one securing the blessings of liberty to all. The history of the last seventy years has proved that the founders of the Republic were mistaken in their expectations; and slavery, so far from gradually disappearing as they had anticipated, had so strengthened itself that in 1860 its advocates demanded the control of the nation in its interests, failing in which they attempted its overthrow. This attempt brought into hostile collision the slaveholding aristocracy, who made the right to live by the toil of others the chief article of their faith, and the free laboring masses of the North, who believed in the right of every man to eat the bread his own hands had earned.

In the earlier stages of the war there was an indisposition on the part of the executive authority to interfere with slavery at all. For a long time slaves who escaped from their rebel owners and came within our lines were driven back. Congress, however, at an early day took action upon this subject, and at the very first session which met after the rebellion broke out, the special session of July, 1861, a law was passed declaring free all slaves who were permitted by their masters to take any part in

the rebellion. Under the provisions of that act, had it been efficiently executed, a great many slaves must necessarily have obtained their freedom. The constitutionality of the act would seem to be clear. I do not suppose that even my honorable friend from Kentucky [Mr. DAVIS] would deny the proposition that if we captured a slave engaged, by consent of his master, in constructing rebel works and fortifications, we might set him free.

That act, however, has not been executed. So far as I am advised not a single slave has been set at liberty under it. Subsequently, at the regular session of Congress which convened in December, 1861, an act of a more comprehensive character was passed—a law providing for the freedom of all slaves who should come within the lines of our armies, who should be deserted by their masters, or who should be found in regions of country which had been occupied by rebel troops and afterwards came within our possession, and who belonged to rebel masters. It is under the provisions of this law that most of the slaves made free have been emancipated. This act also authorized the President of the United States to organize and employ as many persons of African descent as he should think proper to aid in the suppression of the rebellion. But it was a long time before this law was put in operation. Although it was an act called for by the public sentiment of the country, and although it was the duty of those charged with the execution of the laws to see that it was faithfully executed, it was more than a year after its enactment before any considerable number of persons of African descent were organized and armed; and even at this day a much smaller number are in the service than would have been by an efficient execution of the law. It was not until after the passage of this act that our officers, especially in the West, ceased to expel slaves who came within the lines of our army; and so persistently was this practice persevered in that Congress had to interfere by positive enactment, and declare that any officer of the Army or Navy who aided in restoring a slave to his master should be dismissed from the public service, before it could be stopped.

But, sir, had these laws, all of them, been efficiently executed they would not wholly have extirpated slavery. They were only aimed at the slaves of rebels. Congress never undertook to free the slaves of loyal men; no act has ever passed for that purpose.

At a later period, the President by proclamation undertook to free the slaves in certain localities. Notice of this proclamation was given in September, 1862, and it was to become effective in January, 1863. Unlike the acts of Congress, which undertook to free the slaves of rebels only, and of such as came under our control, the President's proclamation excepted from its provisions

the regions of country subject to our authority, and declared free the slaves only who were in regions of country from which the authority of the United States was expelled, enjoining upon the persons proposed to be made free to abstain from all violence unless in necessary self-defense, and recommending them in all cases, when allowed, to labor faithfully for reasonable wages.

The force and effect of this proclamation are understood very differently by its advocates and opponents. The former insist that it is and was within the constitutional power of the President, as Commander-in-Chief, to issue such a proclamation; that it is the noblest act of his life or the age; and that by virtue of its provisions all slaves within the localities designated become *ipso facto* free; while others declare that it was issued without competent authority, and has not and cannot effect the emancipation of a single slave. These latter insist that the most the President could do, as commander of the armies of the United States, would be, in the absence of legislation, to seize and free the slaves which came within the control of the Army; that the power exercised by a commander-in-chief, as such, must be a power exercised in fact, and that beyond his lines where his armies cannot go his orders are mere *brutum fulmen*, and can neither work a forfeiture of property nor freedom of slaves; that the power of Fremont and Hunter, commanders-in-chief for a certain time in their departments, who assumed to free the slaves within their respective commands, was just as effective within the boundaries of their commands as that of the Commander-in-Chief of all the departments, who as commander could not draw to himself any of his presidential powers; and that neither had or could have any force except within the lines and where the Army actually had the power to execute the order; that to that extent the previous acts of Congress would free the slaves of rebels, and if the President's proclamation had any effect it would only be to free the slaves of loyal men, for which the laws of the land did not provide. I will not undertake to say which of these opinions is correct, nor is it necessary for my purposes to decide. It is enough for me to show that any and all these laws and proclamations, giving to each the largest effect claimed by its friends, are ineffectual to the destruction of slavery. The laws of Congress if faithfully executed would leave remaining the slaves belonging to loyal masters, which, considering how many are held by children and females not engaged in the rebellion, would be no inconsiderable number, and the President's proclamation excepts from its provisions all of Delaware, Maryland, Kentucky, Tennessee, Missouri, and a good portion of Louisiana and Virginia—almost half the slave States.

If then we are to get rid of the institution, we must have some more efficient way of doing it than by the proclamations that have been issued or the acts of Congress which have been passed.

Some, however, say that we may pass an act of Congress to abolish slavery altogether, and petitions are sent to Congress asking it to pass such a law. I am as anxious to get rid of slavery as any person; but has Congress authority to pass a law abolishing slavery everywhere, freeing the slaves of the loyal, the slaves of the friends of the Government as well as the slaves of the disloyal and of the enemies of the Government? Why, sir, it has been an admitted axiom from the foundation of this Government, among all parties, that Congress had no authority to interfere with slavery in the States where it existed. But it is said this was in a time of peace, and we are now at war, and Congress has authority to carry on war, and in carrying on war may free the slaves. Why so? Because it is necessary; for no other reason. If we can do it by act of Congress it must be because it is a necessity to the prosecution of the war. We have authority to put down the enemies of the country; we have the right to slay them in battle; we have authority to confiscate their property; but, mark you, does that give any authority to slay the friends of the country, to confiscate the property of the friends of the country, or to free the slaves of the friends of the country?

But it is said that freeing slaves would aid us in raising troops; that slaves are unwilling to volunteer and enter the public service unless other slaves are made free, and that we could raise troops better, sooner, and have a more efficient army if slavery were declared abolished. Suppose that were so, is it a necessity? Can we not raise an army without doing this? Has not the Congress of the United States unlimited authority to provide for the raising of armies by draft, by force to put any and every man capable of bearing arms into its service? Have we not already passed a law compelling men to enter the service of the Government in its defense and for the putting down this rebellion? Then there is no necessity to free the slaves in order to raise an army.

But it is a convenience, perhaps some will say. Sir, it is not because a measure would be convenient that Congress has authority to adopt it. The measure must be appropriate and needful to carry into effect some granted power, or we have no authority to adopt it. I can imagine a thousand things that would aid us to raise troops which no one would contend Congress had authority to do. We now find that it is costing us a large sum of money to carry on this war. There are apprehensions in some quarters

that the finances of the country will not be sufficient to prosecute it to the end. A measure that would enable us to carry on the war cheaper would certainly be one in aid of this war power. In consequence of the prosperity which prevails in the country, wages at this time are very high. Men are unwilling to enlist without large bounties and large pay, because they get high wages at home. Suppose we introduce a bill that no man shall be paid in any manufacturing establishment, at any mechanic art, or for his daily labor, more than ten cents a day, and we visit with penalties and punishment any man who shall give to his employé more than that sum; do you not think that would hold out an additional inducement to volunteer? But who would contend that Congress had any such authority? Manifestly it has not. Nor can I find the constitutional authority to abolish slavery everywhere by act of Congress as a necessity to prosecuting the war.

Then, sir, in my judgment, the only effectual way of ridding the country of slavery, and so that it cannot be resuscitated, is by an amendment of the Constitution forever prohibiting it within the jurisdiction of the United States. This amendment adopted, not only does slavery cease, but it can never be re-established by State authority, or in any other way than by again amending the Constitution. Whereas, if slavery should now be abolished by act of Congress or proclamation of the President, assuming that either has the power to do it, there is nothing in the Constitution to prevent any State from re-establishing it. This change of the Constitution will also relieve us of all difficulty in the restoration to the Union of the rebel States when our brave soldiers shall have reduced them to obedience to the laws.

To secure its passage requires, in the first instance, a vote of two thirds in its favor in each branch of Congress, and its ratification subsequently by three fourths of the States of the Union. Can these majorities be obtained? It is very generally conceded, I believe, by men of all political parties, that slavery is wrong; and that its value to the master is destroyed by the rebellion. What objection, then, can there be on the part of any one, in the present state of public feeling in the country, to giving the people an opportunity to pass upon this question? I would appeal to Senators upon the opposite side of the Chamber, and ask what objection they have to submitting this question to the people and letting them pass upon it? Do any of you deny that slavery lies at the bottom of this rebellion? Do you believe that we should have had this terrible war upon us had there been no slavery in the land? I trust I do not assume too much when I assume that it will

receive the requisite vote of two thirds of each branch of Congress.

Having obtained that, the question then arises, is it probable that it can have the ratification of three fourths of the States?— We have now thirty-five States, and bills have passed both branches of Congress and been approved by the President for the creation of two more, Colorado and Nevada, which will make thirty-seven. When these States are admitted it will require the concurring vote of twenty-eight States in order to adopt this amendment.

If Nebraska should be admitted, for the admission of which a bill is now pending, that would make the number of States thirty-eight, and the votes of twenty-nine States would then be requisite to adopt the amendment. But the admission of Nebraska would not probably affect the result, as, if admitted, she would most probably vote for the amendment.

Of the thirty-seven States, twenty-one are free States, including Colorado and Nevada, and I assume that all those States would vote for this constitutional amendment. There are, then, the States of Maryland, West Virginia, Missouri, Arkansas, Tennessee, and Louisiana, all of which have taken initiatory steps for the abolition of slavery within their borders. Those six added to the twenty-one free States would make twenty-seven. Then there is the State of Delaware, with hardly slaves enough in it to count, which would be left standing alone with free States all around her, and could not long resist a measure which would forever give peace on this question.

I have assumed that all the free States will adopt the amendment. It is now very generally conceded that slavery is not a divine institution. The few in the northern or free States who attempt to uphold it do so on constitutional grounds, denying the authority of the Government to interfere with it; but none of these persons deny or can deny the power of the people to amend the Constitution in the mode prescribed by the instrument itself. If, then, they shall oppose an amendment for the abolition of slavery, it will not be because to abolish it in that form is unconstitutional, but because it is not right, or if right, not expedient. Who in this enlightened day and age can undertake to maintain the natural and abstract right of one man to hold another in bondage; or, who in view of the desolation, suffering and death, slavery has already brought upon the land can think it expedient longer to continue it?

I think, then, it is reasonable to suppose that if this proposed amendment passes Congress, it will within a year receive the ratification of the requisite number of States to make it a part of the Constitution. That accomplished, and we are forever freed of

this troublesome question. We accomplish then what the statesmen of this country have been struggling to accomplish for years. We take this question entirely away from the politics of the country. We relieve Congress of sectional strifes, and, what is better than all, we restore to a whole race that freedom which is theirs by the gift of God, but which we for generations have wickedly denied them.

I know that the passage of this measure will not end this rebellion. I do not claim that for it. There is but one way to do that; and that is by the power of our brave soldiers. We can never have the Union restored, the authority of the Constitution recognized, and its laws obeyed and respected; until our armies shall overcome and vanquish the rebel armies. We must look to our soldiers, to our patriotic Army, to put down the rebellion. But, sir, when they shall have accomplished that, this measure will secure to us future peace. That is what I claim for it. I trust that within a year, in less time than it will take to make this constitutional amendment effective; our armies will have put to flight the rebel armies. I think it ought long ago to have been done; and I think but for the indecision, the irresolution, the want of plan, and the scattering of our forces, it would have been done long ago. Hundreds of millions of treasure and a hundred thousand lives would have been saved had the power of this Republic been concentrated under one mind and hurled in masses upon the main rebel armies. This is what our patriotic soldiers have wanted, and what I trust is now soon to be done.

But instead of looking back and mourning over the errors of the past, let us remember them only for the lessons they teach for the future. Forgetting the things which are past, let us press forward to the accomplishment of what is before. We have at last placed at the head of our armies a man in whom the country has confidence, a man who has won victories wherever he has been, and I trust that his mind is to be permitted uninterfered with to unite our forces, never before so formidable as to-day, in one or two grand armies and hurl them upon the rebel force. Let him put to flight the main rebel army which has threatened the capital for the last three years, and the small rebel armies will quickly succumb. I look for that result during the coming campaign, and with that result, if we civilians do our duty, we shall have the authority of the Constitution vindicated, constitutional liberty reestablished, the Union restored, and freedom everywhere proclaimed.